IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

MFA.No. 1428 of 2001

ARB.OP.265/2000 OF 6TH ADDL.DISTRICT COURT, ERNAKULAM
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APPELLANT/PETITIONERS:
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1. **D. NAGESWARA PRASAD,**
   15/14/8/24. BHARATHY NAGAR,
   VIJAYAWADA, ANDHRA PRADESH.

2. **RATHNAGIRI RAO YADLA,**
   PLOT NO. 7-17-11, KIRALAMKUDI LAYOUT,
   VISAKHAPATANAM, ANDHRA PRADESH.

3. **ROYCE MARINE RPDUCTS LTD.,**
   PLOT NO. 72, KIRLANKUDI LAYOUT,
   VISAKHAPATANAM, ANDHRA PRADESH.

BY ADV. SRI.A.ANTONY
SRI.MATHEW SKARIA
SMT.LEELAMMA ANTONY
SRI.TOMY PAUL

RESPONDENT/RESPONDENT:

THE MARINE PRODUCTS EXPORTS DEVELOPMENT AUTHORITY,
M.P.E.D.A HOUSE, PANAMPILLY NAGAR AVENUE,
ERNAKULAM, KOCHI- 36, REP. BY ITS SECRETARY.

BY ADV. SRI.JOSEPH MARKOSE
SRI.THOMAS VELLAPPALLY

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 01/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA, JJ.

M.F.A.No.1428 OF 2001

Dated 1st October, 2007

JUDGMENT

Koshy,J.

Appellants/petitioners filed a petition under Section 34 of the Arbitration and Conciliation Act to set aside the arbitral award dated 14.6.2000. The arbitral award was passed by a retired District Judge. Even though 18 grounds were mentioned, none of the above grounds were coming under Section 34 of the Arbitration Act. There is no case that Arbitrator went beyond jurisdiction or Arbitrator has conducted any misconduct or there is any patent illegality or error of jurisdiction.

2. It is contended by the appellants that some concessions were given by the respondent to other parties and that concession should be extended to them also. There is no legal ground for the same and respondent has not agreed to extend such concession to the appellants and even the appellants have no case at all that there was such an agreement for extending concession. Secondly it was contended that considering the poor status of the appellants, at least two months moratorium ought to have been given by the Arbitrator in paying the amount. The appeal was filed in 2001 and we are in 2007. We note that as per the provisions of the contract, maximum interest payable was 18%

and that was awarded by the Arbitrator. We have heard the respondent also. Considering the facts and circumstances of the case, we are of the opinion that the total amount of Rs.21,00,222/= need be paid with 12% interest from 1.1.2000 instead of 18% interest till realisation. Interest calculated till that time is not interfered with. The award is modified accordingly. No other grounds are made out for setting aside the award.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.HEMA
JUDGE

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